of those fixed by the commission. *Louisville & N. R. R. v. Kentucky R. R. Com.* (1914, E. D. Ky.) 214 Fed. 465. Or be compelled to issue to each person purchasing a ticket at the higher rate a coupon for eventual redemption. *Bellamy v. Missouri & N. A. R. R.* (1914, C. C. A. 8th) 215 Fed. 18; see also *Taylor-Williams Coal Co. v. Public Utilities Com.* (1918, Ohio) 119 N. E. 459. In the instant case, the injunction might be denied; the new rates are *prima facie* necessary for the successful operation of a public utility for the prosecution of the war. And increased rates, where necessary to operation, have been allowed to remain in force pending decision. *Public Utilities Com. v. Rhode Island Co.* (1918, R. I.) 104 Atl. 690. It is submitted that the instant decision takes to an unwise, somewhat arbitrary, and, it may prove, very unjust means to prevent an evil against which ample protection could be had in the way suggested. A novel jurisdictional complication of these cases is introduced by a recent Massachusetts decision, *Public Service Com. v. New England Tel. Co.* (1919, Mass.) 122 N. E. 566. There a petition by the commission, to enforce an order suspending the taking effect of increased intra-state rates, was dismissed on the ground that the United States "was vitally interested and alone concerned in the toll rates," was a necessary party, could not be impleaded without its consent, and had not consented. *Cf.* (1919) 28 YALE LAW JOURNAL, 714; *ibid.* 199; and see further, on the effect of reversal of an injunction decision, *ibid.* 600.

INSURANCE—LIFE POLICY—EXECUTION OF INSURED—The plaintiff held an insurance policy issued by the defendant on the life of one Weil. The policy contained a clause that "if this policy matures after the expiration of two years, the payment of the same shall not be disputed." Subsequent to the expiration of two years, Weil was executed for murder. *Held,* that the plaintiff could recover the amount of the policy. *Weil v. Travelers' Insurance Co.* (1918, Ala.) 80 So. 348.

Recovery was denied in the first case on this point, which was decided at a time when execution for crime worked a forfeiture of estate and corruption of blood. *Amicable Society v. Bolland* (1830, Eng. Ch.) 4 Bligh's N. R. 194. This holding has been followed by the Supreme Court, on the ground of public policy. *Burt v. Union Central Life Insurance Co.* (1902) 187 U. S. 362, 23 Sup. Ct. 139; *Northwestern Mutual Life Insurance Co. v. McCue* (1911) 223 U. S. 234, 32 Sup. Ct. 220. The objections to this rule are set forth in (1912) 22 YALE LAW JOURNAL, 158, 292. It is also weakened by the analogous cases of suicide which allow recovery. See *Campbell v. Supreme Conclave Order Heptasophs* (1901, Ct. Err.) 66 N. J. L. 274, 278-281, 49 Atl. 550, 551-552. Furthermore, it does not necessarily follow that there should be no recovery in such cases, where the policy contains no stipulation as to these events, merely because an express insurance of suicide or execution would be void. See (1909) 7 MICH. L. REV. 673-675. Indeed, the Supreme Court of Illinois refused to follow the above authorities because forfeiture was no longer affected by execution. *Collins v. Mutual Life Insurance Co.* (1907) 232 Ill. 37, 83 N. E. 542. Nevertheless, the majority doctrine has recently been followed and recovery denied, in the teeth of an incontestability clause in the policy. *Scarborough v. American Insurance Co.* (1916) 171 N. C. 353, 88 S. E. 482; *American National Insurance Co. v. Munson* (1918, Tex.) 202 S. W. 987. The Alabama court in the principal case, taking the opposite view, followed one of their recent decisions which held that the incontestability clause of a policy should bar all defenses not expressly reserved. *Life Insurance Co. v. Lovejoy* (1918, Ala.) 78 So. 299. This view seems preferable, both because of the above objections to the majority doctrine and because policies are to be construed in favor of the

insured. See 14 R. C. L. 926 and cases cited in note 9. It is doubtful, however, whether Alabama would adopt the minority holding should a policy have no clause of incontestability.

INTERSTATE COMMERCE—TELEGRAMS BETWEEN POINTS WITHIN A STATE PASSING THROUGH ANOTHER STATE.—The plaintiff delivered to the defendant at Bassett, Va., a message to be transmitted to Martinsville, Va. The message was sent by a wire which passed Martinsville, but is not designed for direct use there, to a point in North Carolina, whence it was relayed back to Martinsville. An error was made in the transmission, and this action was brought to recover the statutory penalty given by a Virginia statute. *Held,* that the message constituted interstate commerce and was beyond the control of the state. *Western Union Tel. v. Bowles* (1919, Va.) 98 S. E. 645.

Since the amendment of June 18, 1910 (36 Stat. L. 539) to the Commerce Act of 1887, it has generally been held, as in the principal case, that state statutes are inapplicable to telegrams between points within a state which pass through another state. *Bateman v. Western Union* (1917) 174 N. C. 97, 97 S. E. 467, L. R. A. 1918A 803, and see note, *ibid.* 805. The grounds given are that such messages constitute interstate commerce and the federal statute covers the whole subject. *Contra, Western Union Tel. Co. v. Sharp* (1915) 121 Ark. 135, 180 S. W. 504 (not interstate commerce); *Western Union Tel. Co. v. Boegli* (1917, Ind.) 115 N. E. 773 (act of Congress does not cover the whole field). The majority view seems the sounder, and the more likely to be upheld when the question comes before the Supreme Court. The essence of interstate commerce is the crossing of the state border; once it is crossed, whether to be recrossed again or not, the transaction cannot be said to be wholly within the state. There has been some indication of a disposition to limit the rule to cases where the message was not given its interstate routing solely in order to avoid the state statute. *Cf. Bateman v. Western Union, supra;* and the principal case. But it is not believed that such a limitation would be upheld. *Cf. Western Union v. Mahone* (1917) 120 Va. 422, 91 S. E. 157.

LIBEL AND SLANDER—DEFAMATORY TELEGRAM—PUNITIVE DAMAGES FOR MALICE OF AGENT IN TRANSMITTING.—The defendant's agent maliciously accepted and forwarded a message libelous on its face, concerning the plaintiff. In an action by the plaintiff, claiming punitive damages, the defendant contended that the agent acted beyond the scope of his authority. *Held,* that the corporation was liable in punitive damages. *Paton v. Great Northwestern Telegraph Co.* (1919, Minn.) 107 N. W. 511.

Telegraph companies are privileged to refuse messages presented when the acceptance and transmission of the message would subject the companies to civil liability. *Western Union v. Lillard* (1908) 86 Ark. 208, 110 S. W. 1035; *Gray v. Western Union* (1891) 87 Ga. 350, 13 S. E. 562. Such a privilege exists therefore where the message is clearly libelous on its face. *Peterson v. Western Union* (1899) 75 Minn. 368, 77 N. W. 985; *Stockman v. Western Union* (1900) 10 Kan. App. 580, 63 Pac. 658; *Western Union v. Cashman* (1906, C. C. A. 5th) 149 Fed. 367. These cases also hold that in the absence of gross negligence or malice, only compensatory damages may be recovered. Where, however, malice in *fact* is shown on the part of an agent of the company, the damages may be exemplary. A corporation is not usually liable for acts of its officers in their own private transactions. See (1911) 21 YALE LAW JOURNAL, 517. Yet it may be, if the frauds or other wrongs committed by the agent fall within the class of acts in which he usually represents the corporation, although done in the particular instance for his personal benefit. See (1907) 17 *ibid.* 56. So in